

STATE OF CALIFORNIA

ELECTRICITY OVERSIGHT BOARD

PUBLIC MEETING

TUESDAY, AUGUST 1, 2000

CALIFORNIA STATE CAPITOL

ROOM 447

SACRAMENTO, CALIFORNIA

10:30 A.M.

REPORTED BY:

ESTHER F. WIATRE
CSR NO. 1564

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1 APPEARANCES

2
3 BOARD MEMBERS:

4 MICHAEL KAHN, CHAIRMAN
5 BRUCE G. WILLISON (TELEPHONICALLY)
6 SENATOR DEBRA BOWEN
7 ASSEMBLYMAN WRIGHT
8 CAROLYN VEAL-HUNTER
9 JOHN ROZSA

10 EXECUTIVE DIRECTOR:

11 GARY HEATH

12 CHIEF COUNSEL:

13 ERIK SALTMARSH

14 AUDIENCE:

15 GARY ACKERMAN
16 JAMES E. DONNELL

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1 SACRAMENTO, CALIFORNIA

2 TUESDAY, AUGUST 1, 2000, 10:30 A.M.

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4 CHAIRMAN KAHN: Good morning, my name is Michael Kahn.

5 I am the Chairman of the Electricity Oversight Board. This
6 morning we have a meeting which is scheduled to consider the
7 problems in the electricity system.

8 Is this okay?

9 Thank you. Well, I didn't say anything important
10 before.

11 Mr. Willison is here by telephone.

12 Mr. Willison, can you hear?

13 MR. WILLISON: Yes, I can. And my apologies for not
14 being there in person.

15 CHAIRMAN KAHN: We have a quorum. I don't know if we
16 will be joined by Assemblyman Wright or Senator Bowen, but
17 we have Carolyn here for Assemblyman Wright.

18 Let me tell you that the meeting originally was
19 scheduled to consider some of the problems in the system,
20 and since the meeting has been scheduled we have received a
21 letter from the Governor of July 27th, 2000, requesting that
22 we take certain actions.

23 This morning we are going to consider four resolutions,
24 reflecting the request of the Governor. We are going to try
25 to do this in a fairly speedy fashion because I recognize

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1 the ISO individuals have to go back to their Board meeting
2 which had been previously scheduled.

3 In that regard let me thank the ISO administration for
4 accommodating us. I recognize that your meeting was
5 scheduled first and that this is inconveniencing people, and
6 please accept our apologies.

7 Senator Bowen is joining us. We have literally just
8 begun. Bruce Willison is on the telephone with us.

9 The process will be the following:

10 We are going to dispense with the minutes of the
11 previous meeting and take up the minutes of the last meeting
12 and this meeting in the next meeting, and we are going to
13 discuss the resolutions one at a time. There have been a
14 couple requests for public comment and if the individuals
15 who want to make public comment want to make comment in a
16 moment, I will invite you to do so or you can do so in
17 response to the specific resolutions.

18 Senator Bowen, would you like to make any introductory
19 remarks?

20 Carolyn?

21 Okay. Does anyone from the public wish to make any
22 preliminary remarks?

23 Yes. Come on up. You look like you have a lot of
24 paper. I ask you to limit your time.

25 Introduce yourself.

1 MR. ACKERMAN: Thank you very much, Mr. Chairman. Just
2 get everybody aware that I am going to say a few things, if
3 I may have several moments of your time.

4 Mr. Chairman, Members of the Electricity Oversight
5 Board and staff, my name is Gary Ackerman, and I am the
6 Executive Director of the Western Power Trading Forum. Our
7 membership includes electric power wholesales, retailers and
8 exchanges. My Board asked me to address you today to make
9 three points.

10 First, wholesale power markets in the West are workably
11 competitive. Second, we would like to share our views on
12 how to respond to the recent price spikes brought about by
13 record levels of electricity demand. And, third, we believe
14 that fostering the growth of competitive electricity markets
15 will best serve consumers in California.

16 Wholesale power trading has been a vibrant and growing
17 activity in the Western United States and across the country
18 since 1992. In highly competitive markets like this one
19 wholesale power brokers have to work hard to earn return on
20 their investment. Margins have and remain on average super
21 thin. The risks are substantial and the gain is not for the
22 faint of heart. Losses can mount quickly.

23 We are reminded of the Midwest two years ago, for
24 example, when we watched as trading desks and people were
25 let go who were on the wrong side of unanticipated price

1 run-ups, a phenomenon which occurred in two days, not weeks,
2 not months.

3 Here is the point: There are many entities in this
4 business, including generators, brokers, marketers and
5 buyers, all of whom buy, sell and trade power and the
6 volumes are large enough so no one or two buyers or sellers
7 can possibly dominate the market. Those are the yardsticks
8 by which FERC and ourselves judge whether or not a market is
9 competitive. Price run-ups or depressions are not
10 indicators of a broken market.

11 Some people have said that California is the dominant
12 price maker in the west. It is not true. Electricity
13 prices seek a regional equilibrium. Prices outside of
14 California are set hours before the PX prices are even
15 known. So you can't say that California sets the prices.

16 We are concerned that the June price runup, although
17 significant and newsworthy, has triggered a host of
18 unsubstantiated conclusions to the effect that wholesale
19 markets are not working. We respectfully disagree.

20 The San Diego energy summits in the last three weeks
21 point to a disturbing example of what happens when consumers
22 are not adequately protected from price risk. Prior to the
23 introduction of retail electric competition, consumers were
24 protected from price volatility through regulatory
25 mechanisms. Even though those prices fluctuated with

1 seasonal variations, customers only saw the average price
2 signal.

3 In San Diego consumers are no longer protected by the
4 rate freeze or the past practice of averaging annual energy
5 costs. When prices vary as they did in June, the consumer's
6 monthly energy bill can double, as the public is now well
7 aware of. One of the goals of deregulation was to preserve
8 scarce resources by allowing the consumers to make informed
9 choices about their electricity use. When electricity is
10 scarce and the price is high, consumers can employ options
11 to manage price volatility. They can manage their
12 electricity usage by setting their thermostats higher. As a
13 matter of fact, we can do that in this room right now.

14 Use of electric appliances, like dishwashers and
15 dryers, during off-peak hours or other electricity
16 conservation techniques can be undertaken. Or the
17 electricity retailer, whether it be the default utility
18 provider or a direct access provider can hedge its price
19 risk to protect customers from price volatility.

20 We don't think eliminating retail competition and
21 returning to a single retail provider is the answer. If you
22 want to accept that as the answer, then you would also have
23 to believe and have consumers believe that if we only had
24 one retailer, for example unleaded gasoline in a region like
25 Southern California, and that one retailer, for example,

1 were Texaco, just to pick a name, that you would have and
2 consumers would believe they have, the lowest possible
3 prices. I don't think you are going to find too many people
4 accepting that premise.

5 Finally, I wish to share some data which we have to
6 compare the prices competitive generators have received
7 since June of 1999 to date.

8 What I would like to do, Sharon, if you can hand these
9 out and help me out a little bit. There are extra copies
10 that I have for the public.

11 The top half of the data chart that I am showing you is
12 what the generation component is for the frozen rate for the
13 small commercial and residential tariffs at PG&E, Edison and
14 San Diego Gas & Electric. They range all over the map.

15 On the bottom half of the chart we have the
16 month-by-month average PX price. These are the PX monthly
17 average prices for which independent generators have covered
18 all of their costs: fuel, operations and maintenance, debt
19 service and return. I want to compare those monthly average
20 PX prices to what Edison and PG&E estimate their residential
21 and small business pay under the respective tariffs for
22 generated power during the rate freeze, which are the 1996
23 rates and what San Diego customers in the same classes were
24 paying before their freeze ended last year.

25 Every month, except for June, the PX price was

1 significantly lower than Edison's generation component. And
2 for San Diego the PX price was higher than the generation
3 component last June, and a little bit higher in two other
4 months.

5 Returning to a regulatory paradigm of just and
6 reasonable rates would erase those benefits. I ask you the
7 question: Where did the money go? Where did the savings
8 end up?

9 They went to pay off the uneconomic investments which
10 occurred during decades of just and reasonable rate
11 regulation.

12 In closing, we would like to commend the Electricity
13 Oversight Board for undertaking on its own initiative to
14 collect data regarding the operations of the ISO and the
15 PX. We believe that if these data are put before an
16 independent and qualified third-party audit, the results
17 will show no wrongdoing, no collusion and no price fixing.
18 The public will regain the confidence in competitive power
19 provision and the ideals so broadly put forward in the
20 enabling legislation, AB 1890. We must not lose sight of
21 the fact that before deregulation Californians were paying
22 electricity prices that were 50 percent higher than the
23 national average.

24 Turning back the progress we have made will not accrue
25 to the benefits of consumers. Fostering viable competitive

1 markets will.

2 Thank you.

3 CHAIRMAN KAHN: Thank you, Mr. Ackerman.

4 I would like to welcome Assemblyman Wright.

5 Mr. Ackerman, would you be kind enough to share your
6 remarks with our staff until we can have them in writing as
7 well orally. I can also tell you that the debate which we
8 are going to have today is going to be a continuing one, and
9 your input will be appreciated and I assume will be
10 continuous.

11 MR. ACKERMAN: Thank you.

12 CHAIRMAN KAHN: Any questions from Senator Bowen?
13 Assemblyman Wright?

14 Thank you very much, Mr. Ackerman.

15 We will take up the first resolution.

16 Mr. Heath, can you tell us what the first resolution
17 is?

18 Mr. Willison, are you still with us?

19 MR. WILLISON: Yes.

20 MR. HEATH: Thank you, Mr. Chairman, Members.

21 In response to the Governor's request of July 27th, we
22 have prepared four resolutions that I believe memorialized
23 his request, and we would like to take each one of those one
24 at a time for consideration and possible action on the
25 resolution.

1 The first resolution, Mr. Chairman, reads as follows
2 for those who do not have a copy:

3 Whereas, Governor Gray Davis has requested
4 that the Electricity Oversight Board take
5 certain actions to assure that prices paid
6 for energy procured by and through the
7 California Power Exchange and the California
8 Independent System Operators are reasonable
9 until markets are workably competitive.

10 Now, therefore, be it resolved, that the EOB
11 urges the California ISO Governing Board to
12 act immediately to reduce caps on electric
13 bids to the lowest reasonable level that is
14 consistent with the charging of just and
15 reasonable rates to California consumers.

16 (Reading.)

17 CHAIRMAN KAHN: Is there anyone from the public wishing
18 to comment on the resolution?

19 Assemblyman Wright?

20 Senator Bowen?

21 ASSEMBLYMAN WRIGHT: I am not sure I understand the
22 effect of the resolution. What are they asking us to do?

23 UNIDENTIFIED VOICE: Mike.

24 ASSEMBLYMAN WRIGHT: I am not sure of the effects of
25 that. I hear what you said.

1 CHAIRMAN KAHN: I think the effect of the resolution is
2 to ask the ISO to use its authority to reduce the caps to
3 the lowest possible level immediately. I think immediately
4 means right after they leave this room.

5 Mr. Willison, do you have a motion?

6 MR. WILLISON: I would be happy to make a motion, and
7 then I would like to make a comment.

8 I would move the resolution that was read by the
9 Executive Director.

10 CHAIRMAN KAHN: I will second it.

11 Mr. Willison, your comment.

12 MR. WILLISON: My comment is one that I guess points to
13 the general issues that we're faced with in the
14 extraordinary transition from the regulated industry to the
15 deregulated industry. And I think what this underscores is
16 our need to be vigilant and helpful, but to assume that we
17 are --

18 Am I coming through?

19 CHAIRMAN KAHN: You were.

20 SENATOR BOWEN: Technical moment.

21 (Phone interruption.)

22 MR. WILLISON: Hello, I am back.

23 CHAIRMAN KAHN: Yes, you are.

24 MR. WILLISON: Hope nobody gets electrocuted playing
25 with the mikes.

1 CHAIRMAN KAHN: Why don't you start from the
2 beginning. You were commenting.

3 MR. WILLISON: Yes. Well, I think the point that I
4 want to make is that we have to be very cognizant of the
5 fact that we as a state are continuing to undertake a
6 monumental process of going from a deregulated to
7 competitive industry, and that the actions incorporated in
8 these resolutions underscore the point that we do have to be
9 vigilant and we have to be helpful. But also that we would
10 have every expectation that we would continue this very
11 important process and that we would believe that the
12 consumers and producers will be best served once we get
13 there. But it doesn't mean it is going to be easy.

14 Therefore, take the steps like reducing the cost to the
15 lowest level possible, it is part of the process of this
16 decision.

17 CHAIRMAN KAHN: Any further comment?

18 Motion has been made and seconded.

19 All in favor.

20 Passes two to nothing.

21 Mr. Heath, the second resolution.

22 MR. HEATH: Thank you, Mr. Chairman and Members.

23 The second resolution reads as follows:

24 Whereas, Governor Gray Davis has requested
25 that the Electricity Oversight Board take

1 certain actions to assure that prices paid
2 for energy procured by and through the
3 California Power Exchange and the California
4 Independent System Operator are reasonable
5 until markets are workably competitive.
6 Now, therefore, be it resolved, that the EOB
7 urges the Governing Board of California ISO
8 to request that the Federal Energy Regulatory
9 Commission extend the California ISO's
10 authority to impose bid caps; and
11 Resolved further, that EOB urges that the
12 California ISO make such a request of FERC at
13 the earliest possible opportunity; and
14 Resolved further, that the EOB direct EOB
15 staff to take all necessary and appropriate
16 actions to support the ISO in such a request
17 at FERC; and
18 Resolved further, that EOB direct EOB staff
19 to coordinate with the California Public
20 Utilities Commission in actions to achieve
21 the above-stated goals. (Reading.)

22 CHAIRMAN KAHN: Any public comment?

23 Assemblyman Wright?

24 Senator Bowen?

25 Mr. Willison, do you have a motion?

1 MR. WILLISON: I move the resolution just read by the
2 Executive Director.

3 CHAIRMAN KAHN: I will second it.

4 Any further discussion?

5 All in favor, aye.

6 This resolution passes two to nothing.

7 I might also observe that the Governor also wrote a
8 letter to the Federal Regulatory Agency itself, and I have
9 received a phone call from the General Counsel from FERC
10 saying their attention has been gotten. As I understand,
11 also according to the General Counsel of FERC, Senator Boxer
12 has been present on the subject.

13 The third resolution.

14 MR. HEATH: Thank you, Mr. Chairman, members.

15 Third resolution reads as follows:

16 Whereas, as Governor Gray Davis requested
17 that the Electricity Oversight Board take
18 certain actions to assure that the prices
19 paid for energy procured by and through the
20 California Power Exchange and the California
21 Independent System Operator are reasonable
22 until markets are workably competitive.
23 Now, therefore, be it resolved that EOB urges
24 the CalPX Governing Board to request that the
25 Federal Energy Regulatory Commission

1 authorize the CalPX to impose bid caps at the
2 lowest reasonable level, consistent with the
3 requirement that rates borne by California
4 consumers are just and reasonable; and
5 Resolved further, that the EOB urges that the
6 CalPX make such a request of FERC at the
7 earliest possible opportunity and to request
8 the earliest possible effective date; and
9 Resolved further, that the EOB staff to take
10 all necessary appropriate actions to support
11 the CalPX in such a request at FERC; and
12 Resolved further, that the EOB direct EOB
13 staff to coordinate with the Public Utilities
14 Commission in actions to achieve the
15 above-stated goal. (Reading.)

16 CHAIRMAN KAHN: Any further comment?

17 Any comments from Legislative Members?

18 Mr. Willison, do you have a motion?

19 MR. WILLISON: I move the resolution just read by the
20 Executive Director.

21 CHAIRMAN KAHN: Second.

22 Is there any further discussion?

23 All in favor.

24 Resolution passes two to nothing.

25 The final resolution.

1 MR. HEATH: Thank you, Mr. Chairman, Members.

2 The fourth resolution reads:

3 Whereas, Governor Gray Davis has requested
4 that the Electricity Oversight Board take
5 certain actions to assure that prices paid
6 for energy procured by and through the
7 California Power Exchange and California
8 Independent System Operator are reasonable
9 until markets are workably competitive.

10 Now, therefore, be it resolved, that EOB
11 directs EOB staff to take the necessary and
12 appropriate actions to lodge with the Federal
13 Energy Regulatory Commission a request that
14 FERC: one, find that the wholesale markets in
15 California are not workably competitive, and,
16 two, take the necessary actions in light of
17 this finding to ensure that the rates paid by
18 California consumers are just and reasonable,
19 consistent with the requirements of the
20 Federal Power Act. (Reading.)

21 CHAIRMAN KAHN: Any public comment?

22 Any comment from the Legislative Members?

23 Mr. Willison.

24 MR. WILLISON: I will move the resolution just read by
25 the Executive Director.

1 CHAIRMAN KAHN: I will second that. However, I would
2 ask the counsel if in the ordinary course of events that
3 this resolution passes prior to there being a submittal to
4 FERC, will the Legal Committee of the EOB have an
5 opportunity to review this to determine if they perceive a
6 problem.

7 MR. SALTMARSH: The Legal Committee will have that
8 opportunity if the Legal Committee so desires, and I think
9 that that is the desire.

10 CHAIRMAN KAHN: Mr. Willison, I think that the -- I
11 take it that the spirit of your motion would incorporate the
12 idea that prior to anything being filed with FERC in this
13 regard that the Legal Committee would have an opportunity to
14 review it?

15 MR. WILLISON: Correct.

16 CHAIRMAN KAHN: With that stated, all in favor of the
17 motion.

18 The motion passes two to nothing.

19 We welcome Mr. Rozsa to the meeting. We just passed
20 four resolutions corresponding with the request of the
21 Governor.

22 Finally, the final business today pertains to the
23 status of oversight of the ISO. I would like to have a
24 report on three matters. One is the status of the nominees
25 from the ISO Board and where the process is, and, two, the

1 status of our review of any of the budget of the ISO.

2 MR. HEATH: Mr. Chairman and Members. The first item
3 on the nomination process, we have received from the ISO a
4 list of nominees with their qualifications. This list
5 includes all Board Members. But the ones that we will be
6 asking the Board to focus on in regard to our authority
7 under SB 96 would be for the end user classes.

8 The process that are we proposing for the Board is that
9 the Board at the next meeting, which is scheduled at this
10 point for August 31st, that such action would be considered
11 and taken by the Board. Between now and the 31st, we are
12 reviewing the qualifications associated with each of the end
13 users. We will see the qualifications statements in there
14 as well as accompanying resumes are sufficient for the Board
15 to take action. We may be requesting additional information
16 from some participants. If so, we will do that no later
17 than the first of next week, on Monday. And then have those
18 responses back well in time for the Board's consideration in
19 your backup package that will be submitted to you seven days
20 prior to the Board meeting.

21 CHAIRMAN KAHN: That is at the auspices of Mr.
22 Willison's committee.

23 MR. HEATH: Absolutely correct, Mr. Chairman. We will
24 be working with the Members to ensure all the information
25 that he needs, that the Board needs to have in front of it

1 is -- we have it, as well as recommendations coming from the
2 members themselves.

3 CHAIRMAN KAHN: Mr. Willison, do those comport with
4 your understanding?

5 MR. WILLISON: Yes, it does. That is correct.

6 CHAIRMAN KAHN: Any questions or comments about that
7 process?

8 Seeing none, finally what is the status of review of
9 any of the ISO budget?

10 MR. HEATH: Mr. Chairman, you will recall at our last
11 Board meeting last month we were going to have a
12 presentation by the ISO Governing Board and Power Exchange
13 on their annual budgets. That did not occur because of
14 other matters that were more important on the day. We have
15 for us now the budget. We are looking at it. It will be
16 our intent to have that made, a presentation once again by
17 the ISO as well as the Power Exchange, I believe, on their
18 budgets, and we will have a recommendation on that back to
19 this Board prior to the meeting of August 31st.

20 CHAIRMAN KAHN: Mr. Willison, is that acceptable to
21 you?

22 MR. WILLISON: Correct.

23 CHAIRMAN KAHN: Thank you very much.

24 We have one other item of business in the open session,
25 and then we have some items in the closed session.

1 Mr. Donnell, I believe that is your name, would you
2 like to make public comment?

3 Please come forward.

4 MR. DONNELL: Thank you very much. My name is Jim
5 Donnell. I am with Duke Energy of North America.

6 And clearly as evidenced by the four resolutions
7 discussed and enacted upon here today by the contemplated
8 measures at ISO going on right now, articles written in
9 every publication one can pick up in this region, the angst
10 over the wholesale electric market in California is
11 tremendous.

12 The issue we believe very clearly is one of reserve
13 margin. Over the last decade while adding 15,000 megawatts
14 to demand, we have added 2- or 3,000 megawatts to our
15 supply. Consequently, the reserve margins that exist today
16 in this region are practically nonexistent. That clearly
17 drives high prices and tremendous volatility. Exactly what
18 we see today.

19 Yesterday Duke Energy of North America made an offer to
20 Governor Davis. Our offer had two components. The first
21 was to assist with the core issue of adding new supply to
22 the state in expedited manner. Working with all the state
23 agencies, be it regulatory, environmental, legislative
24 oversight, et cetera, Duke Energy proposes to bring 3,000
25 megawatts on line over the next two summers. That begins to

1 get at the short-fall problem. That does not address the
2 issue today which is probably not fairly described as
3 economic but is fairly described as social or political, is
4 the one of prices that are being seen by consumers today.

5 Through the structure that exists today the incumbent
6 utilities have their hands tied relative to their ability to
7 manage risk.

8 The second part of Duke's proposal was to sell a fixed
9 price product to the incumbent utilities at a wholesale
10 level for them to serve retail load at a fixed price for a
11 fixed time period. For both components of Duke's offer the
12 issue is probably less the specifics of the offer, but the
13 issue that action is required and required now.

14 One, we have to do something to get new supply in this
15 mix or we will not fix prices and volatility. And we have
16 to address risk management. We can't require people to have
17 risk and not have all the tools available in the marketplace
18 to manage it. While we understand price caps will be voted
19 on today, they've already moved from 750 to 500, and they
20 will probably strike a new level today, or that is the
21 prevailing wisdom, I would challenge everyone involved in
22 this discussion, this debate, to come up with that economic
23 model which shows where price caps have ever resolved the
24 problem. They don't address the core issue, which is
25 reserve margin.

1 Thank you, Mr. Chairman.

2 CHAIRMAN KAHN: Thank you very much for your comments.

3 And while we don't necessarily agree with all your
4 observations, certainly your observation about reserve
5 margin is one that is on everybody's mind. We wish we
6 weren't in this position.

7 Thank you very much. Your comments, your proposal to
8 the Governor, those were in writing?

9 MR. DONNELL: Yes. There is a letter that went to the
10 Governor yesterday.

11 CHAIRMAN KAHN: Senator.

12 SENATOR BOWEN: I need to respond publicly to the
13 various assertions that have been made, just made, and the
14 first speaker, that the issue as though they were only one
15 issue, a lack of supply.

16 I think the problem is far more complicated than that,
17 and that we deal with this only as a matter of adding
18 supply. We are bound to continue experiencing volatility
19 price spikes. We have a variety of problems. We do not
20 have any price signals for many, if not most, of the
21 customers of electricity in California. No one in PG&E or
22 Edison territory or SMUD territory or LADWP territory sees
23 any increase in the rates at peak times on a real time
24 basis.

25 That, therefore, means there is virtually no elasticity

1 of demand. If you saw prices, they might know they should
2 turn up their air conditioner or thermostat. They might
3 know various things. In most parts of this state nobody
4 sees the net effect of the wholesale prices that are being
5 passed through until three to five weeks after those prices
6 happen. Even in San Diego, people are not seeing those
7 prices on a real time basis or basically very few people
8 are.

9 I also think we have to look at a limit on the
10 financial tools that have been available for limiting risk,
11 as well as market design. The fact that on Sunday when we
12 are in a daily peak low for load we had extremely high
13 prices in the middle of the day when we were nowhere near
14 the reserve margin, says to me the reserve margin is not the
15 problem where we wouldn't be seeing those kinds of prices in
16 the middle of the afternoon on Sunday where load is no where
17 near the operating reserve.

18 I think we have to do far more than just look at the
19 supply side. We will never build enough supply given the
20 way that we are expanding, to have the economics to buy
21 those final 200 hours of peak hours. We will have to deal
22 with that in other ways. We will have to look at load
23 shedding, load reduction, elasticity, hedging and a loss of
24 other matters. That is not to say additional supply isn't
25 needed and that transmission of upgrades and various other

1 improvements to the system as a whole are not needed. But I
2 simply cannot let go unchallenged the statement that the
3 issue is supply.

4 CHAIRMAN KAHN: Thank you.

5 Any further comment by anyone?

6 With that the public session will be closed. We will
7 go into executive session.

8 ASSEMBLYMAN WRIGHT: I have just had my wisdom teeth
9 pulled and I have been taking Vicodin, which I would advise
10 everybody to get some. It is great.

11 CHAIRMAN KAHN: Different committee.

12 ASSEMBLYMAN WRIGHT: I agree with Debra. I think in
13 some respects we need to do -- I suppose if I were thinking
14 back, in the old days when we had an inverted integrated
15 monopoly, where PG&E or Edison or one of the IOUs, they
16 wouldn't have raised the price. They wouldn't have kept the
17 money. So incentive on them was to keep the price wherever
18 it was because they weren't going to get to keep the money.
19 There was no incentive for them to keep the price. If you
20 look, for example, at my city, LADWP, I have said this a
21 couple times, I watched a guy buy a power plant that burns
22 coal in Utah, and when he first did it he was a smart guy,
23 because the price was under what it cost to do fuel oil at
24 the time. And everybody said, "Well, you are a smart guy.
25 You bought this coal and you have this long-term contract

1 and the stability for City of Los Angeles for a long time."
2 Then people start doing natural gas prices and the price of
3 electrons went below what he paid for natural gas. They
4 took this bastard out and shot him.

5 Then the price of electrons went above where he was.
6 And David Freeman has since come to the DWP. We have now
7 have made almost a billion dollars selling power back to the
8 other people. Now people think David Freeman is the
9 smartest guy whoever walked.

10 The same decision that one guy made has been smart and
11 stupid and smart and stupid. It is the same decision, but
12 depending on where the price of electrons went, that
13 determined whether or not it was good or bad that day. I
14 think that certainly if I was one of the people who bought
15 power plants and I paid a lot of money for them, I'd want to
16 get my money back. Since I am not capped in terms of how
17 much profit I can make, I am going to make as much as I
18 can. That is a function of the market. If I can make \$700
19 a megawatt hour, I want that. If I can get 15, I want
20 that.

21 One of the things that is interesting in the market is
22 now we are now selling power out of state. We are both an
23 importer and an exporter of power at the same time, which
24 almost seems contradictory, but it isn't now. People who
25 used to sell power exclusively in California now say, "Oh,

1 there is somebody who will pay more today. Well, you know I
2 don't really care a rat's ass about the people in Hermosa
3 Beach because the people in Phoenix are prepared to pay a
4 whole lot more for that power."

5 We are at the same time on a peak day, we are about 30
6 percent net importer and we might be about a 10 or 15
7 percent exporter, which means we are going to have to import
8 more to cover not just the excess demand. But we are going
9 to have to cover more towards those electrons that leave
10 California because people get a better price someplace
11 else. I think we are going to probably have to do a number
12 of things. But something that I learned when I got old, and
13 getting old is great, my wisdom teeth leaving
14 notwithstanding, but in any business transaction, and I have
15 said a couple times, there are only three things on the
16 table. There is price. There is quality and service,
17 irrespective of what the transaction is.

18 The consumer can only get two of the three. You cannot
19 get all three because the businessman doesn't make a living
20 if you get all three. What we are going to have to
21 determine is whether or not price is, in fact, the thing
22 that we are the most concerned about. If that is the case,
23 that means we are going to have to make some concessions on
24 service and we are going to have to make some concessions on
25 quality. But if you attempt to get all three, you get lost

1 and nobody has ever succeeded in that. And I defy you -- I
2 have read all the things from Brookings and other people
3 about the airline industry. Go catch a plane and you will
4 see there is a significant reduction in service. You got a
5 cheaper ticket if you happen to be going on the routes that
6 are most popular. Go ask some poor son-of-a-bitch in Fresno
7 who now pays about \$600 to fly to Los Angeles, or look at
8 delays and the other things that are implemented, and that
9 is the element of deregulation.

10 We bid there on price. In fact, most people got lower
11 prices. But the service went to hell in a handcart. That
12 is okay because you're paying less and you're getting
13 less. I don't think that we should attempt to say that we
14 want to necessarily bind ourselves to get a low price. We
15 could have made prices go down under the old regime if that
16 was all we were trying to do. We could have simply ordered
17 people to build more plants and we could have told them that
18 they were only going to make so much money while in a
19 regulated environment.

20 One of the things that we have also done is we enjoy
21 in California some of the cleanest power industries. Coal,
22 you don't do this. You do that. There is CEQA. You get to
23 make a whole lot of intervenor fees. If some bastard lights
24 up the plant, you charge him through the nose. If you go to
25 GE right now and try to buy a generator, you've got to wait

1 a hundred years. Everybody who has money to buy one is
2 getting back orders. You can't get a turbine.

3 There are a number of things that we ultimately have to
4 look at. And I will end with that. I am not sure where the
5 Vicodin kicks in or common sense does. I think that we've
6 got to be clear what it is we absolutely want and be clear
7 which of those things we are going to give away.

8 If, in fact, we are going to be able to relax some issues
9 on service -- in my district in South Central Los Angeles,
10 about half the people who use power in my area is for the
11 refrigerator. You can't unplug the refrigerator at peak
12 time because when you come back you will have another set of
13 problems. Between the refrigerator and the TV and the
14 lights and maybe a computer here and there, there are not a
15 lot of options that most of those people have.

16 But I can take you to senior citizens who will jump on
17 you if you leave the light on too long. They are very
18 efficient about don't turn on the light if you are not in
19 the room, turn off the TV. They are very circumspect about
20 that. They don't know in terms of real time; they just know
21 if I don't use as much I don't pay as much. They want to
22 keep their cost down. I think on the residential side,
23 people are beginning to do that. To some extent, a lot of
24 larger customers are doing that because they are buying real
25 time meters. They're trying to find ways to cut their

1 cost.

2 I do think we can increase energy efficiency in some of
3 the appliances people use. We can make refrigerators
4 better, make appliances better. We can do other things. I
5 think where we better be real careful is we don't jump up
6 politically and respond to somebody who says my price is too
7 high. Because I assure you if there was no power, suddenly
8 price would no longer be an issue.

9 In San Francisco that day that the lights were out for
10 almost eight hours, price was no longer an issue. The mayor
11 went looking for a low bidder. He was sent -- and I was
12 laughing the other day because they ran a power plant out of
13 San Francisco that they were going to build in Hunters Point
14 because it was going to be environmentally insensitive. I
15 believe there is a proposal, they are going to pull a barge
16 up to San Francisco Bay right at the Embarcadero and diesel
17 engines pumping, I don't know, 15 or 20 ppm right into the
18 middle of the bay.

19 Well, hell, if they are going to do that, they would
20 have been a whole lot better off taking the AES plant and
21 putting it in Hunters Point. Even as we sit here that guy
22 wants to build a plant in San Jose. The people and the
23 mayor says, "I don't want a power plant." If nobody wants a
24 power plant and nobody wants transmission and nobody wants
25 any of the things that go along with developing the

1 infrastructure, you can't bitch about pricing. The cost
2 will simply be what does it cost me to get power when I
3 don't want a power plant, when I don't want transmission, I
4 don't want overhead lines, I don't want transformers. That
5 is fine. You can get that, but you will pay a premium for
6 the privilege of saying that you got power under the
7 conditions that you wanted it under.

8 CHAIRMAN KAHN: Thank you.

9 Mr. Saltmarsh, did you want to say anything before we
10 go into closed session?

11 MR. SALTMARSH: Mindful of the schedule. Very briefly
12 for the benefit of the people following this discussion. I
13 think many in the room are aware of this. I was going to
14 take note of three items that occurred in decisions of the
15 Federal Energy Regulatory Commission on the 26th of last
16 month, and together they really go to the question of
17 whether there is something unique either physically in
18 California or about the efforts of California to utilize
19 bulk energy markets to serve its customers' needs.

20 As you are aware, several other areas of the country
21 are operating under restructured grid and market operations.
22 On the 26th of last month, the Federal Energy Regulatory
23 Commission approved bid capping to be put in place in the
24 New York Independent System Operator territory and the New
25 England Independent System Operator, and simultaneously

1 directed FERC staff to investigate the operation of bulk
2 energy markets throughout the United States to determine
3 what problematic issues were causing the complaints FERC is
4 hearing about the competitiveness and results coming out of
5 those markets. That initiative is starting and will very
6 much be figuring in parallel with California's own
7 deliberations on these issues.

8 CHAIRMAN KAHN: With that, I will call the public
9 session to a close.

10 Thank you again very much.

11 (Whereupon, the Board went into closed session.)

12 CHAIRMAN KAHN: We are back in session and adjourned.

13 (Meeting adjourned at 11:10 a.m.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, ESTHER F. WIATRE, certify that I was the
official Court Reporter for the proceedings named herein,
and that as such reporter, I reported in verbatim shorthand
writing those proceedings;

That I thereafter caused my shorthand writing to be
reduced to typewriting, and the pages numbered 3 through 32
herein constitute a complete, true and correct record of the
proceedings.

IN WITNESS WHEREOF, I have subscribed this certificate
at Sacramento, California, on this 2nd day of August 2000.

ESTHER F. WIATRE
CSR NO. 1564